



PATENT
Attorney Docket No. 07456.0009

AEJ / Recen
#21 / 12/27/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Herbert PEIFFER et al.

Application No.: 09/274,781

Filed: March 24, 1999

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) Group Art Unit: 1773

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) Examiner: V. Chen

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TC 1700

For: TRANSPARENT POLYESTER FILM WITH HIGH OXYGEN BARRIER
AND ADDITIONAL FUNCTIONALITY, ITS USE AND PROCESS FOR ITS
PRODUCTION

Assistant Commissioner for Patents
Washington, DC 20231
Sir:

Response Under 37 C.F.R. § 1.111

This communication responds to the non-Final Office Action dated July 2, 2002. The period for response has been extended by three months to January 2, 2003, by the enclosed Petition for Extension of Time and corresponding fee.

In light of the Terminal Disclaimer filed on June 6, 2002, the Examiner withdrew the rejection of claims 1-6 and 8-23 under the doctrine of obviousness-type double patenting over claims 1-17 of U.S. Patent No. 6,054,212. The Examiner raised new obviousness-type double patenting rejections, however, in light of the claims of co-pending application nos. 09/922,615 and 09/922,674 and in light of the claims of U.S. Patent Nos. 6,391,410 and 6,149,995.

In response to the new rejections, applicants attach a Terminal Disclaimer that references the cited documents. The submission of the Terminal Disclaimer should obviate the rejections. As noted in MPEP § 804.02, the filing of this Terminal Disclaimer does not constitute an admission of the propriety of the rejection. Applicants also included reference to U.S. Patent No. 6,054,212 in the Terminal Disclaimer. This is because applicants have noticed that the original Terminal Disclaimer referencing this patent, and filed on June 6, 2002, was not signed by an attorney named in the inventor's Power of Attorney. The new Terminal Disclaimer is signed by such an attorney.

Applicants note the Examiner's comment on page 2 of the recent Office Action that the finality of an earlier Office Action was withdrawn in view of newly discovered "prior art." No new prior art rejections have been made in the recent Office Action. Instead, the rejections are based on the doctrine of obviousness-type double patenting. Applicants do not admit or otherwise represent that any of the documents cited in the rejections constitute "prior art."

Since no other rejections remain pending in this application, applicants respectfully look forward to receipt of a Notice of Allowance. If there is any fee due in connection with the filing of this Response, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By: 

Steven J. Scott
Reg. No. 43,911

Date: December 16, 2002